

informing the applicant of his contemplated action and affording the applicant not more than 10 days in which to submit proposed findings and conclusions or exceptions to the recommended decision with reasons in support thereof. If the district director, after consideration of the record of the hearing and of any proposed findings, conclusions or exceptions filed with him by the applicant, approves the findings, conclusions and recommended decision of the administrative law judge, he shall by order approve or disapprove of the application in accordance therewith. If, after such consideration, he disapproves of the findings, conclusions and recommended decision of the administrative law judge, in whole or in part, he shall by order make such findings and conclusions as in his opinion are warranted by the law and facts in the record. Any decision of the district director ordering the disapproval of an application for a permit shall state the findings and conclusions upon which it is based, including his ruling upon each proposed finding, conclusion and exception to the administrative law judge's recommended decision, together with a statement of his findings and conclusions, and reasons or basis therefor, upon all material issues of fact, law or discretion presented on the record. A signed duplicate original of the decision shall be served upon the applicant and the original copy containing certificate of service shall be placed in the official record of the proceeding.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9197, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

§ 200.107a District director's decision.

(a) When the district director issues an initial decision in accordance with § 200.79, the decision shall become a part of the record. The decision shall consist of (1) a brief statement of the issues involved in the proceedings; (2) the district director's findings and conclusions, as well as the reasons therefor; and (3) the district director's determination on the record.

[T.D. ATF-244, 51 FR 45764, Dec. 22, 1986, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

§ 200.108 Suspension, revocation, or annulment proceedings.

(a) Upon receipt of the complete certified record of the hearing the district director shall enter an order suspending, revoking, or annulling the permit (Form 1430-B) or dismissing the proceedings in accordance with the administrative law judge's findings and decision, unless he disagrees with such findings and decision and files a petition with the Director, for review thereof, as provided in § 200.115. If the district director files such petition, he shall withhold issuance of the order, pending the decision of the Director, upon receipt of which he shall issue the order in accordance therewith. A signed duplicate original of the order of the district director shall be served upon the respondent and the original copy containing certificate of service shall be placed in the official record of the proceeding. In all proceedings in which a suspension is imposed, the district director's order shall state the time when the suspension period set forth in the administrative law judge's decision shall commence and terminate.

(b) In a case where the initial decision is made by the district director in accordance with § 200.79, the district director will also issue an order suspending, revoking or annulling the permit (on Form 5000.5), or dismissing the proceedings in accordance with his initial decision. A signed duplicated original of the decision and order of the district director shall be served upon the respondent and the original copy placed in the official record of the proceeding. In all proceedings in which a suspension is imposed, the district director's order shall state the time when the suspension period set forth in the initial decision shall commence and terminate.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9196 and 9197, Mar. 6, 1985; T.D. ATF-244, 51 FR 45764, Dec. 22, 1986; T.D. ATF-374, 61 FR 29957, June 13, 1996]

§ 200.109 Notice to Director.

When the district director makes an order suspending, revoking or annulling a permit, he will furnish a copy of the order and of the decision on which

it is based to the Director. Should such order be subsequently set aside on review by the courts, the district director will so advise the Director.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9197, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

§200.110 Proceedings involving violations not within region of issuance of permit.

In the event violations occurred at a place not within the region of issuance of a permit, the district director of the region of issuance will take jurisdiction over any proceeding including issuing the citation, and taking appropriate action in accordance with §200.108.

[T.D. ATF-244, 51 FR 45764, Dec. 22, 1986, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

Subpart I—Review

§200.115 Appeal on petition to the Director.

An appeal to the Director is required prior to application to the Federal courts for review. An appeal may be taken by the applicant or respondent or by the district director. Such appeal shall be taken by filing a petition for review on appeal with the Director within 15 days of the service of the order disapproving an application for a permit or the initial decision suspending, revoking or annulling a permit. The petition must set forth facts tending to show action of an arbitrary nature, or action without reasonable warrant in fact, or action contrary to law and regulations. A copy of the petition shall be filed with the district director or served on the respondent or applicant as the case may be. In the event of such appeal, the district director shall immediately certify and forward the complete original record, by certified mail, to the Director, for his consideration and review.

[T.D. ATF-244, 51 FR 45764, Dec. 22, 1986, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

§200.116 Review by Director.

The Director, on appeal on petition for review, shall afford a reasonable opportunity for the submission of proposed findings, conclusions or exceptions with reasons in support thereof and an opportunity for oral argument. He may alter or modify any finding of the administrative law judge (or of the district director in application proceedings) and may affirm, reverse, or modify the decision of the administrative law judge (or of the district director in initial application proceedings), or he may remand the case for further hearing, but he shall not consider evidence which is not a part of the record. Appeals and petitions for review shall not be decided by the Director in any proceeding in which he has engaged in investigation or prosecution, and in such event he shall so state his disqualification in writing and refer the record to the Under Secretary for appropriate action. The Under Secretary may designate an Assistant Secretary or one of his principal aides to consider any proceeding instead of the Director. The original copy of the decision on review shall be placed in the official record of the proceeding, a signed duplicate original shall be served upon the applicant or respondent and a copy shall be transmitted to the district director. When, on appeal, the Director affirms the decision of the district director or the administrative law judge, as the case may be, disapproving an application or suspending, revoking or annulling a permit, such action shall not supersede the decision of the district director or the administrative law judge and such decision shall be final.

(26 U.S.C. 7805 (68A Stat. 917), 27 U.S.C. 205 (49 Stat. 981 as amended), 18 U.S.C. 926 (82 Stat. 959), and Sec. 38, Arms Export Control Act (22 U.S.C. 2778, 90 Stat. 744))

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 43 FR 13531, Mar. 31, 1978; T.D. ATF-199, 50 FR 9197, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

§200.117 Permit privileges, exceptions.

Pending final determination of any timely appeal in revocation, suspension, or annulment proceeding to the Director, the permit involved shall continue in force and effect except